

REMARKS

The Office Action dated November 8, 2005, has been received and carefully considered. It is believed that this Amendment, in conjunction with the following remarks, place the application in immediate condition for allowance. Accordingly, entry of this Amendment and favorable consideration of the application are respectfully requested.

I. THE OBVIOUSNESS REJECTION OF CLAIMS 1-24

On page 4 of the Office Action, claims 1-3, 6-9, 11-15, 18-21, 23 and 24 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Pickering (U.S. Patent No. 6,628,666) in view of Oran (U.S. Patent No. 6,275,574). On page 7 of the Office Action, claims 4 and 16 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Pickering, in view of Oran, and further in view of Alperovich (U.S. Patent No. 6,728,215). On page 7 of the Office Action, claims 5 and 17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Pickering, in view of Oran, and further in view of Bridgman (U.S. Patent No. 6,523,062). On page 8 of the Office Action, claims 10 and 22 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Pickering, in view of Oran, further in view of Kuthyar (U.S. Patent No. 5,768,513). These rejections are hereby respectfully traversed.

Regarding claims 1 and 13, the Examiner asserts that Pickering teaches "a first interface (interface between telephone and computer) to a telephone device (col. 5, lines 60-col. 6, line 12); a second interface (internet interface or telephone interface) to at least one communication link (col. 5, line 60-col. 6, line 12); and a host (ref. 202: computer), communicating with the first interface and the second interface, the host, after receiving a call initiation via a first interface, selectively initiating a call from the network-enabled telephone device as at least one of a telephone call and a data connection via the at least one communications link and a data connection via the at least one communications link according to at least one transmission criterion.

Although Applicant does not agree with the pending rejection, Applicant has nonetheless amended each of the independent claims to recite a feature and functionality not disclosed by the cited references. In particular, Applicant has amended independent claims 1 and 13 to recite "a host, communicating with the first interface and the second interface, the host selectively initiating a call from the network-enabled telephone device as at least one of a telephone call and a data connection via the at least one communications link according to at least one user-defined transmission criterion." Support for

this amendment is found throughout the specification. See, e.g.,
Page 10, line 24 - Page 11, line 10.

Applicant respectfully submits that Pickering does not teach or suggest any feature or functionality comprising a host, communicating with the first interface and the second interface, the host selectively initiating a call from the network-enabled telephone device as at least one of a telephone call and a data connection via the at least one communications link according to at least one user-defined transmission criterion.

Indeed, Applicant respectfully submits that the excerpt relied upon by the Examiner merely discloses a system that switches between IPNT and PSTN/ISDN calls based on available bandwidth, but not that the bandwidth level, for example, is user-defined:

As briefly discussed with reference to the background section, bandwidth is shared on the Internet, and must be available at a sufficient magnitude for the success of the IP call. Also, there are typically many routing points through which IP calls must pass. Available bandwidth can vary from one routing point to another. Therefore, software of the present invention (SW), of which there is an instance installed on PC 202, must monitor for available bandwidth along the entire path between PC 202 and finally processor 175. This may be accomplished by using existing techniques known in the art such as RSVP. RTP may be utilized as well provided that it is supported in the Internet phone application used by the customer at station 200.

SW has a pre-stored threshold for bandwidth needed for supporting IP calls from station 200. If bandwidth is found to be available at or above the preset

threshold, then the IP call may proceed with acceptable quality between the agent at station 160 and the client at station 200.

In conventional art if there is not sufficient bandwidth available in one or more points along the routing path of the IP call, then the call would still be delivered, however the quality of communication may be substandard primarily because of lost packets of information. For example, voice may be choppy or unintelligible, video may be delayed, or not available at all, and so on.

A method according to the present invention allows for the client to be prompted via SW in the event that a desired quality of service cannot be reserved. A prompt, in this case, offers an option for the customer to switch the call over to another media type such as PSTN or ISDN. If a customer elects to switch, then his modem may dial the number through receiver modular cable 173, customer's telephone 200 and telephone channel 182 as call 104. The call is delivered to the agent at station 160 to which the IPNT call was connected. Once the conventional call is established the original IP call is terminated.

After the original call is terminated and the PSTN/ISDN call proceeds, SW in a preferred embodiment continues to ping the opposite terminal point for bandwidth, indicated by latency. If sufficient bandwidth (minimum latency) becomes again available via the Internet route, the call may be switched back to an IPNT call, and the PSTN/ISDN call may then be terminated.

See Pickering, Col. 6, lines 24-67.

Applicant respectfully submit that the above excerpt does not teach or suggest at least one user-defined transmission criterion, much less the step of selectively initiating a call from the network-enabled telephone device as at least one of a telephone call and a data connection

via the at least one communications link according to at least one user-defined transmission criterion, as required by each of the independent claims, as amended.

Moreover, Applicant respectfully submits that none of the other cited references -- namely Oran, Alperovich, Bridgman and Kuthyar -- make up for Pickering's deficiency in this regard. Accordingly, Applicant respectfully submits that independent claims 1 and 13, as amended, are allowable over the cited references.

Claims 2-12 and 14-24 are dependent upon independent claim 1 or 13. Thus, since independent claims 1 and 13 should be allowable as discussed above, claims 2-12 and 14-24 should also be allowable at least by virtue of their dependency on independent claim 1 or 13. Moreover, these claims recite additional features which are not claimed, disclosed, or even suggested by the cited references taken either alone or in combination. For example, claim 2 recites wherein the network-enabled telephone device comprises a SIP-enabled telephone device. Applicant respectfully submits that neither Pickering nor Oran, alone or in combination, teaches or suggests the system of claim 1 wherein the network-enabled telephone device comprises a SIP-enabled telephone device.

In view of the foregoing, it is respectfully requested that the aforementioned anticipation rejection of claims 1-24 be withdrawn.

II. CONCLUSION

In view of the foregoing, it is respectfully submitted that the present application is in condition for allowance, and an early indication of the same is courteously solicited. The Examiner is respectfully requested to contact the undersigned by telephone at the below listed telephone number, in order to expedite resolution of any issues and to expedite passage of the present application to issue, if any comments, questions, or suggestions arise in connection with the present application.

To the extent necessary, a petition for an extension of time under 37 CFR § 1.136 is hereby made.

Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to

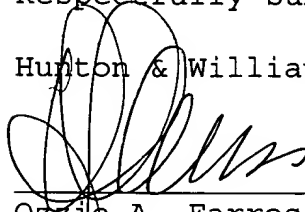
Patent Application
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Respectfully submitted,

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APPENDIX A

1 (Currently Amended). A system for adaptively placing a call via one of a plurality of transmission modes, comprising:
a first interface to a network-enabled telephone device;
a second interface to at least one communications link; and
a host, communicating with the first interface and the second interface, the host selectively initiating a call from the network-enabled telephone device as at least one of a telephone call and a data connection via the at least one communications link according to at least one user-defined transmission criterion.

2 (Original). The system of claim 1, wherein the network-enabled telephone device comprises a SIP-enabled telephone device.

3 (Original). The system of claim 1, wherein the first interface comprises a USB connection.

4 (Original) . The system of claim 1, wherein the first interface comprises a wireless interface.

5 (Original). The system of claim 4, wherein the host comprises a Wireless Markup Language module.

6 (Original). The system of claim 1, wherein the host comprises a computer.

7 (Original). The system of claim 1, wherein the at least

one transmission criterion comprises at least one of cost, time of day, day of week, user-defined routing data, packet delay and signal to noise ratio.

8 (Original). The system of claim 1, wherein the call comprises a telephone call and the at least one communications link comprises the public switched telephone network.

9 (Original). The system of claim 1, wherein the call comprises a data connection and the at least one communications link comprises the Internet.

10 (Original). The system of claim 1, further comprising a media management module, the media management module executing at least one of a cordless telephone operation, an answering machine operation, a pager operation, an intercom operation, and an audio/visual operation via the network-enabled telephone device.

11 (Original). The system of claim 1, wherein the host selectively retries at least a data connection to reassess transmission conditions.

12 (Original). The system of claim 1, wherein the at least one communications link comprises a plurality of communications links, and the host selectively activates one of the communications links according to the at least one transmission criterion.

13 (**Currently Amended**). A method for adaptively placing a call via one of a plurality of transmission modes, comprising:

a) receiving a call initiation request, via a first interface to a network-enabled telephone device; and

b) selectively initiating a call from the network-enabled telephone device as at least one of a telephone call and a data connection via at least one communications link according to at least one user-defined transmission criterion.

14 (Original). The method of claim 13, wherein the network-enabled telephone device comprises a SIP-enabled telephone device.

15 (Original). The method of claim 13, wherein the first interface comprises a USB connection.

16 (Original). The method of claim 13, wherein the first interface comprises a wireless connection.

17 (Original). The method of claim 16, further comprising a step of c) executing a Wireless Markup Language module.

18 (Original). The method of claim 13, wherein the step b) of selectively initiating is executed by a host computer.

19 (Original). The method of claim 13, wherein the at least one transmission criterion comprises at least one of cost, time of day, day of week, user-defined routing data, packet delay and signal to noise ratio.

20 (Original). The method of claim 13, wherein the call comprises a telephone call and the at least one communications link comprises the public switched telephone network.

21 (Original). The method of claim 13, wherein the call comprises a data connection and the at least one communications link comprises the Internet.

22 (Original). The method of claim 13, further comprising a step of d) executing at least one of a cordless telephone operation, an answering machine operation, a pager operation, an intercom operation, and an audio/visual operation via the network-enabled telephone device.

23 (Original). The method of claim 13, further comprising a step of e) selectively retrying at least a data connection to reassess transmission conditions.

24 (Original). The method of claim 13, wherein the at least one communications link comprises a plurality of communications links, further comprising a step of f) selectively activating one of the communications links according to the at least one transmission criterion.